UNITED NATIONS

E/NL.1991/37-38
4 September 1991
SPANISH AND ENGLISH ONLY
ORIGINAL: SPANISH

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

COLOMBIA

Communicated by the Government of Colombia

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

CONTENTS

		Page
E/NL.1991/37	Decree No. 1146 of 31 May 1990, establishing measures to restore public order	2
E/NL.1991/38	Decree No. 2894 of 3 December 1990, establishing measures to restore public order	10

V.91 28567 1393E

E/NL.1991/37

PRESIDENCY OF THE REPUBLIC

DECREE No. 1146 OF 31 MAY 1991,
establishing measures to restore public order.

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA,
in exercise of the powers conferred on him by article 121 of the Political Constitution and pursuant to Decree 1038 of 1984, and

Considering:

That in Decree No. 1038 of 1984 1/ public order was declared to be disturbed and martial law was established throughout the national territory;

That one of the reasons why public order was declared to be disturbed and martial law was established throughout the national territory concerned the persistent drug-trafficking activities of anti-social groups which were seriously disrupting the normal functioning of institutions, in criminal contempt for Colombian society, with consequences for the safety of its citizens, public peace and health and the national economy;

That drug trafficking, by its nature, is a criminal activity operating internationally and with international effects, for which reason in order effectively to combat it, there is need to control the transportation and prevent the illicit use of the inputs, chemical products and other items which may be employed in the processing, manufacture or transformation of narcotic drugs or drugs producing psychological or physical dependence, including facilitating joint action by authorities in those countries which are afflicted by this terrible scourge;

That the crime of drug trafficking has resorted to new and increasingly dangerous methods which threaten the core of society and endanger the institutional stability of the country, requiring special, flexible and effective legislation to stop its harmful action and disastrous effects on public order;

That article 110 of the Criminal Code, as amended by article 37 of Law No. 2 of 1984, provides that "the offence carries with it the surrender to the State of the instruments used to commit the offence and the assets and securities derived therefrom";

That the Supreme Court of Justice declared the former law to be capable of execution in its decision of 3 July 1981, and also declared article 47 of Law No. 30 of 1986, 2/ which adopted the National Narcotic Drugs Statute and laid down other provisions, particularly with regard to the legality of the preventive seizure of assets apparently linked to the commission of offences described in that Law to be capable of execution, when it stated: "There is no doubt that the Law allows the ordering of seizure of such assets, for investigatory purposes, to prevent their continued illicit use or, even, to ensure the effective application of the penalty which may be imposed for the acts in question. Under no circumstances can it be accepted, in respect of those who do not show legitimate title to the assets to which the provision refers, or their innocence of the criminal acts described in article 47, that there has been an expropriation in contravention of the constitutional obligations of this Institution under article 30, since in the absence of a legitimate interest of the said owner, there are no grounds for setting it against the legitimate interest of the community, the necessary condition for the State to acquire possession in this way. It is a matter of a sanction for not using the property for the appropriate social purpose, unlike confiscation, and it is founded on article 30 of the Basic Constitution, which is the source of administrative procedures related specifically to the loss of ownership through the failure to use rural property and which the law may well extend to all aspects of property, both immovable and movable, urban and rural" (Supreme Court of Justice, Plenary session, decision of 21 January 1988);

That in order to suppress drug trafficking it has become necessary to adopt measures to allow the State to seize all classes of assets and effects, directly or indirectly connected with the commission of the offences of drug trafficking, related offences and other offences arising therefrom;

That such measures must also be designed to prevent the direct or indirect use in the commission of the offences of drug trafficking or related offences, of public property licensed by the Directorate-General for Shipping and Ports in coastal areas and other areas under its jurisdiction for maritime activities or which may endanger national security;

That it has become necessary to lay down additional provisions, including those by which to control the import and circulation of chemical substances used in the processing of narcotic drugs or substances producing physical or psychological dependence,

DECREES:

CHAPTER ONE

Article 1. While there is disturbance of public order and martial law in the national territory, the transport, transit, arrival, entry into the national territory or storage of the following goods or products shall be subject to the provisions of this Decree, without prejudice to other legislation in force in this matter: acetone (2-propanone; dimethyl-ketone), hydrochloric acid, ethyl ether (sulphuric ether, ethyl oxide, diethyl ether), chloroform (tricloromethane), sulphuric acid, ammonia (ammonium hydroxide), potassium permanganate, sodium carbonates, methyl-ethyl-ketone (2-butanone, MEK), aliphatic solvent No. 1, aliphatic solvent No. 2 thinner, ethyl acetate, methanol or methyl alcohol, butyl acetate, diacetone-alcohol (Pyranton), hexane, butyl alcohol (1-butanol; butyl alcohol, propyl carbinol), and butanol.

Paragraph. Also subject to this Decree shall be any other substances, as determined by resolution of the National Narcotic Drugs Council which may be used for the processing, manufacture or transformation of narcotic drugs or drugs producing physical or psychological dependence.

Article 2. With effect from the entry into force of this Decree, the entry into free trade zones of the goods and products described in article 1 of this Decree shall be prohibited.

The entry of the goods listed in article 1 may be effected only by the customs offices of Barranquilla, Bogotá, Buenaventura and Cartagena. Their bonded warehousing may take place only at the location established for the purpose by each of these customs offices, in agreement with the anti-drugs police.

Paragraph. Exempted are only those products which at the date of publication of this Decree have the relevant permit for entry into a free zone and provided that they have been loaded, with bill of lading, airwaybill or other similar international transport document, issued by a public carrier, at a date concurrent with or prior to the entry into force of this Decree, which may, consequently, enter the customs area of destination or the corresponding free zone.

Article 3. An importer who intends to bring merchandise such as described in article 1 into a free zone and who considers that the circumstances described in article 2 above apply, shall in any case and at the latest at the time of arrival of the ship, inform in writing the manager of the free zone concerned and the port police headquarters of the type and composition of the product, the name of the ship, the quantity, manufacturer and country of origin, the intended destination of the product and the time-limit within which he will remove such products from the free zone, which shall in no case exceed three (3) months, starting from the date of arrival of the ship. In the event of the above time-limit being exceeded, the goods will be declared abandoned in favour of the Nation by the customs administrator in the free zone concerned.

Article 4. Industrial users of the free zone shall have to declare to the Executive Secretariat of the National Narcotic Drugs Council that they require the products described in article 1 above for their industrial, manufacturing or production process in order that the Council may issue a permit to receive and store such products. Current users of industrial free zones shall have three (3) months, with effect from the entry into force of this Decree, to obtain the relevant permit.

The Executive Secretariat of the Council shall issue such permits on condition that it is provided to its satisfaction with the relevant information, which shall include at least:

1. Chemical and commercial name of product.
2. Name and address of suppliers.
3. Country or countries of origin.
4. Trade marks and means of identification.
5. Quantities required for use quarterly and annually.
6. Mathematical relationship between the quantity of the product used in the process and the approximate quantity of finished product obtained.
7. Current stock of such products.

In addition, and on a quarterly basis, the Executive Secretariat of the National Narcotic Drugs Council shall be notified, for each product, of the quantities received, the consumption, the finished products manufactured from these goods, the balance remaining and any other information necessary to carry out a check on stocks and consumption of products described in article 1 of this Decree.

Paragraph. The transfer of such goods from the free zone into the territory under customs control in the same state as they were brought into the free zone is prohibited.

Article 5. On the basis of information supplied by the interested party and his affirmation that he will permit free access and control by the anti-drug police authorities at the place of storage, the Secretariat may issue a permit allowing the interested party to import into industrial free zones those products described in article 1 of this Decree, without prejudice to the powers of inspection and control devolving upon the customs and provided that for each import the other relevant customs regulations in force are complied with. These permits shall be valid for one year.

Article 6. The administration of the free zone shall inform the Executive Secretariat of the National Narcotic Drugs Council of the stock they currently hold of the products described in article 1 of this Decree. The same obligation applies to any person who is the owner, consignee or depositary or any similar category in customs zones, free zones, maritime terminals, private or public docks, or the operator of private docks or any other warehouse or storage specified by the Directorate-General of Customs for the storage of foreign goods.

This information shall be submitted within forty-five (45) days following the entry into force of this Decree, stating as a minimum:

1. Name and domicile of interested party.
2. Name of product in his possession, with indication of the nature of his title to possession.
3. Manufacturer's trade mark.
4. Country of origin.
5. Quantity and form of storage.
6. Intended destination of the product.
7. Name of importer, if known.
8. Name of exporter, if known.
9. Copy of import licence, if any.
10. Address of the place where the goods are located.

Paragraph 1. The foregoing information shall be signed by the interested party or his legal representative, under oath, with full details of his name and identity document.

Paragraph 2. These goods shall be despatched for consumption, or shipped further when legally possible, within ninety (90) days following the entry into force of this Decree, on penalty of declaration of abandonment of the goods in favour of the Nation by the competent customs administrator.

Article 7. The Directorate-General for Customs and National Police, through its port, airport and anti-drug departments, may carry out visits and inspections at maritime terminals, airports, free zones, private or public docks, general warehouses or any other depository or store which is under the control of the Directorate-General for Customs, in order to take samples for laboratory tests on the stored goods, from any class of chemical products or substances similar to those described in article 1, so as to establish whether or not such goods are regulated by this Decree.

The national police, in order to carry out the visits and inspections at depositories and stores under the control of the Directorate-General for Customs shall coordinate such activities with the customs administrator concerned.

In the event that it is established that the goods concerned are those described in article 1, the mere fact of the false or misleading declaration at the time of entry or arrival, with or without the participation of the importer, shall result in seizure of the goods, which shall be placed at the disposal of the National Narcotic Drugs Council.

Paragraph. In all the proceedings set out in this article, the agency carrying out the visit or inspection shall issue a document permitting the participation of the customs officer responsible for the warehouse and persons who believe they have any rights over the goods if they are present, and indicating the relevant details of the visit or inspection. The person responsible for such a document shall send a copy to the Executive Secretariat of the National Narcotic Drugs Council for the purposes of the prescribed procedure, without prejudice to the copy which he shall deliver to the interested parties.

Article 8. The goods described in article 1 of the present Decree may only be unloaded, in the case of carriage by sea, in the COLPUERTOS terminal ports or exceptionally in those private docks which have a special permit for the purpose, located within the jurisdiction of the customs indicated in article 2, which must be requested from the Directorate-General for Shipping and Ports within sixty (60) days of the entry into force of the present Decree, which shall grant such a permit if the requirements and procedures set out in pargraphs 1 and 2 of the present article are fulfilled. The foregoing is without prejudice to the existing licence to handle foreign and export goods for the granting of which the Directorate-General of Customs is the competent authority.

Paragraph 1. To enable the Directorate-General for Shipping and Ports to issue the special permit to which this article refers to a person acting as an operator of a private dock or any other port installation, other than COLPUERTOS, in which the products described in article 1 of the present Decree are received or unloaded, the interested party must submit an application in person to the Director-General for Shipping and Ports containing:

1. Name, domicile and identification of the natural or legal person making the application.

2. In the case of a legal person, the name, domicile and nationality of all its shareholders, legal representatives and directors.

3. A certificate from the Executive Secretariat of the National Narcotic Drugs Council testifying that it has no information on the interested natural person or all the legal representatives, principals and agents, persons with capacity to represent the company, principal and alternate members of the board of directors and any shareholder who controls or owns more than twenty per cent (20%) of the share capital. The same requirement shall apply to legal persons which are shareholders of the legal applicant. Aliens shall submit a certificate from the police of the country of origin or residence testifying to their good conduct or lack of criminal record.

4. Description of the type of products expected to be received, frequency and quarterly quantities, showing suppliers, country of origin and names and addresses of persons or consignees at the final destination for the last six (6) months.

5. The exact location of storage sites where the goods will be kept, and in the event of direct discharge from ships to tanks, a certificate from a company qualified in the inspection and calibration of measuring equipment stating that it has recently inspected and checked the manometers or measuring equipment needed to establish the exact quantity of product received or delivered, and that they have seals or devices preventing them being altered.

6. The licence for the storage of foreign goods issued by the Directorate-General for Customs.

Paragraph 2. On receipt of the application and after the requirements set out in paragraph 1 above have been fulfilled, the Directorate-General for Shipping and Ports shall order an inspection to be carried out in person by the harbourmaster, accompanied by experts, to verify the information submitted and the conditions of security and control for the storage, loading, unloading and delivery of the products to be shipped through the private dock.

In addition, the dock operator shall be required to maintain a special stock control ledger with a complete record of the movement of these goods, showing: type and trade mark of the product received; quantity received; date of arrival; number and date of shipment advice; name of consignee; his tax identity number (NIT) and address; number and date of manifest; number of import declaration; quantity delivered to consignee; name of land carrier and identification of the vehicle used.

Article 9. The dock operator with a special permit to receive the goods described in article 1 must satisfy himself that the consignee or addressee of the products concerned has obtained a prior permit from and is registered with the National Narcotic Drugs Council.

In accordance with the provisions of paragraph 2 of article 7, the harbourmaster, national anti-drug or port police and the national customs are authorized to carry out visits and inspections at the installations of operators of such private terminals or port installations so as to take samples of products and soundings of tanks and for making physical inventories, as well as inspecting ledgers. In the event of discovery of any irregularity, a report shall be submitted to the Directorate-General for Shipping and Ports for continuation of the investigation into contravention of the merchant shipping regulations, which may result in the application of the sanctions contained in article 16 of this Decree. In the event of recurrence, the operating permit for such a dock shall be suspended for an effective period of not less than three (3) months. In the event of a

second recurrence, the permit and the concession to which it relates shall be definitively cancelled. All the foregoing is without prejudice to any criminal proceedings to which it might give rise.

Article 10. With effect from the entry into force of this Decree, the goods described in article 1 may not be requested for clearance on the basis of an advance declaration to which article 156 of Decree No. 2666 of 1989 refers, nor be the subject of urgent formalities, nor shall they be unloaded with an immediate destination in the secondary customs zone, nor shall COLPUERTOS permit their direct unloading.

Article 11. The captain of any ship, whether of Colombian or foreign registration, intending to sail through Colombian territorial waters, even in innocent passage, when carrying on board the substances described in article 1 of this Decree must give prior notice by radio or any other means of communication, or through his shipping agent in Colombia, if any, to the National fleet or the nearest harbourmaster that he is carrying such goods and indicating, if it is an innocent passage, his route or alternatively the port in the Republic where he intends to dock.

Article 12. When the goods on board the ship are destined for a Colombian port, the notice to which the foregoing article refers shall be given to the relevant port authority and headquarters of the port police at the port of destination, at least 24 hours before the estimated time of arrival or docking in the first Colombian port, with details of the type of goods concerned, quantity, importer, trade marks, manufacturer, country of origin and itinerary of ports where the ship will dock prior to the unloading of such products.

Paragraph. The foregoing obligation shall be met without prejudice to the declaration of such goods in the manifest or freight list which must be carried and delivered in all cases for customs purposes.

Article 13. Craft of the National Ministry of Defence and the Directorate-General of Customs, which carry clear and identifiable insignia as craft in Government service, shall have the right to visit all vessels flying the Colombian flag or those of any other State sailing in exercise of the right of innocent passage through territorial waters, i.e. within twelve (12) nautical miles measured from the nearest points of the straight base lines in force, in particular when it is suspected that they are in contravention of the provisions of this Decree.

In such cases, if in the judgement of the authority carrying out the visit the regulations under this Decree have been infringed, the ship must be ordered to sail to a Colombian port where the relevant offical investigation will be pursued by the Colombian maritime authority.

Vessels and aircraft of the Ministry of National Defence may, in accordance with international conventions in force, exercise the right of pursuit of such vessels or aircraft and also those for which there are grounds for believing that offences against Colombian laws and regulations have been committed, in particular those stipulated in this Decree.

Article 14. The customs offical responsible for receiving the ship or aircraft must always verify whether the freight list or manifest includes any goods described in article 1 of this Decree, and if such be the case must immediately inform the local port or airport police and the chief of customs.

Article 15. The customs authorities must always carry out a physical inspection of the goods described in article 1 and shall permit the presence of a member of the relevant port police who shall check the documentation submitted, the quantities loaded and details of the destination. In case of doubt concerning the nature of the goods, the police officer may take samples, recording that fact in the respective report.

Article 16. The contravention by shipowner, ships' captains and maritime carriers or their agents of the provisions of articles 11 to 13 of the present Decree shall be considered as a contravention of the rules of maritime operations and the merchant marine and, in consequence, the Directorate-General for Shipping and Ports shall be empowered to investigate and sanction such acts or omissions, and shall apply the fines set out in article 80 of Decree No. 2324 of 1984.

The foregoing is without prejudice to the seizure of goods described in article 1 of this Decree.

Paragraph. Captains, officers and crews and ships, vessels or naval craft involved in investigations into contravention of this Decree shall be subject to the provisions of article 72 and paragraph of Decree No. 2324 of 1984, but the maximum fine which may be imposed shall be four thousand (4,000) times the minimum monthly salary.

Article 17. The Executive Secretariat of the National Narcotic Drugs Council shall refrain from issuing no information on drug trafficking certificates until 31 December 1990 to new enterprises whose social objective is marketing any of the substances subject to the present control.

Paragraph. Exempted are procedures in which the requirement for personal submission have been fulfilled and the request was initiated at a date prior to the entry into force of this Decree.

CHAPTER TWO

Article 18. The discovery by the competent authority of marijuana, cocaine, morphine, heroin or any other substance which produces physical or psychological dependence in a ship or aircraft in public service in connection with or as a direct result of information or requests by the commander or captain, its owner, charterer or operator, shipping agent or responsible employee of the public air or sea transport concerned shall not give rise to seizure of the ship or aircraft, nor the application of any surety, so that the public transport vehicle may still pursue its operations and itineraries, without hindrance from such cause.

This regime shall apply only to ships or aircraft in public service, in the course of operating routes or itineraries, or in providing services duly authorized by the Directorate-General for Shipping and Ports or by the Civil Aviation Administration Department, as appropriate.

Article 19. Public service air or sea carriers shall have a preferential right to receive as deposit or other title not involving transfer of ownership, the ship or aircraft, whether owned, leased or chartered, which is in legitimate operation in public traffic or service to or from Colombia, if it is involved through such use in the offence of drug-trafficking and related offences or those described in Legislative Decrees No. 1856 and No. 1895 of 1989.

The National Narcotic Drugs Council may decide on the deposit of such a ship or aircraft when it has learned of the arrest of the means of transport directly from the competent authority, or by copy of the document described in article 3 of Legislative Decree No. 2390 of 1989.

Paragraph. In the event of seizure of ships or aircraft in public air or sea service coming under this article, the personal presentation to which article 6 of Decree No. 42 of 3 January 1990 refers, shall be undertaken by the captain or agent of the ship or aircraft, who may be assisted by persons holding power of attorney if they so wish, so as to request the judge in the matter for restitution of the ship or aircraft.

Article 20. When the National Narcotic Drugs Council has to decide on the deposit, seizure or destination of ships, it must contact the Director-General for Shipping and Ports in order to hear his views.

Article 21. The resolution by which the National Narcotic Drugs Council returns the ship or aircraft to the owner shall establish as a surety or guarantee an amount which the Council considers adequate in the circumstances, but shall not be less than one thousand (1,000) times the minimum monthly salary or greater than the market value of the ship or aircraft.

Article 22. The surety or guarantee to which the preceding article relates may consist of a bank guarantee, insurance policy of an insurance company legally established in Colombia or guarantee from protection and indemnity associations or clubs, provided that the latter have been accepted by the Directorate-General for Shipping and Ports in accordance with article 72 of Decree Law No. 2324 of 1984, which shall remain in force until the final decision of the court of last instance and three (3) months thereafter.

Article 23. In order not to impede the international transport of public merchandise and to avoid prejudice to third parties, the relevant customs administrator, subject to prior written approval by the chief of the local anti-drug police, or his officer-in-charge, may authorize the public air or sea carriers herein concerned to transship or unload the remaining goods not directly involved in the offence under investigation. Such transshipment or unloading may in all cases be ordered to take place under the supervision of the police and legal authorities.

Article 24. All public carriers which have routes or services administered by the Directorate-General for Shipping and Ports as defined in article 160 and paragraph of Decree No. 2324 of 1984 must submit, within one hundred and twenty (120) days of the entry into force of this Decree, the no-information certificates issued by the Executive Secretariat of the National Narcotic Drugs Council in respect of the persons concerned, in the case of natural persons, and all the legal representatives and persons with capacity to represent the company, and its directors, in the case of a legal person.

Paragraph 1. The failure to fulfil the foregoing requirement within the stated time-limit will result in the suspension of the route or service assigned to the interested party. After a further sixty (60) days starting from the date on which the route or service was to be suspended, if the no-information certificates have not been submitted, the Directorate-General for Shipping and Ports shall immediately cancel such routes or services and, furthermore, cancel the registration of the interested party as a maritime carrier.

Paragraph 2. In the case of legal persons, the no-information certificate shall include, in addition to the president, manager, deputies, principal members and alternates on the board of directors and other managers, the shareholders owning twenty per cent (20%) or more of the share capital. Aliens shall submit a similar or equivalent certificate from the police authorities in their country of residence or principal domicile.

Article 25. Any natural or legal person who currently has registered with the harbourmaster's office in the country any type of small or large ship, launch, yacht or boat, provided that it exceeds thirty-two (32) feet in width, or has an on-board engine of greater than eighty-two (82) horsepower must, within one hundred and twenty (120) days of the entry into force of this Decree, submit in person or through a person with power of attorney to the harbourmaster where it is registered or licensed, the valid no-information certificate issued by the Executive Secretariat of the Nati al Narcotic Drugs Council in respect of the owner of the vessel, if a natural person, and all the legal representatives, members of the board of directors and other managers, together with all partners or shareholders owning twenty per cent or more of the stock, shares or rights into which the equity capital is divided, if a legal person, on the date of entry into force of this Decree and also of such persons at the date when the request concerned was initiated.

Article 26. If after the lapse of the time period established in the preceding article any owner of a ship registered or licensed at any harbourmaster's office has not submitted in due form the respective no-information certificates, the harbourmaster must send to the Director-General for Shipping and Ports, to the National Narcotic Drugs Council and to the port police headquarters the list of such vessels, with full identification and the full name and domicile of the known owner.

Such ships may not weigh anchor or sail and on those grounds alone the operating permit shall be suspended until the owner delivers a satisfactory no-information certificate.

Article 27. If sixty (60) days have elapsed following the end of the time-limit established in article 25 of this Decree without the owner of the ship or vessel delivering the relevant no-information certificate, such vessels shall be seized provisionally on the grounds that they are deemed to be vessels directly or indirectly linked with drug-trafficking and related offences, or illicit enrichment, under the relevant legislation in force, and shall be placed at the disposition of the National Narcotic Drugs Council.

Article 28. Any concessionaire authorized by the Director-General for Shipping and Ports for the use and enjoyment of assets for public use belonging to the Nation must submit within six (6) months of the entry into force of this Decree, through the harbourmaster's office with jurisdiction over the area under concession or under the Directorate-General for Shipping and Ports, a no-information certificate issued by the Executive Secretariat of the National Narcotic Drugs Council, in respect of the holder of the concession, if a natural person, or all the legal representatives, principal and alternate members of the board of directors and other managers or persons with capacity to represent the company, as well as any partner or shareholder if he is the owner of twenty per cent (20%) or more of the share capital.

If such partners are in their turn legal persons, a no-information cerificate must be submitted in respect of the legal representatives, persons with capacity to represent the said company and members of the board of directors, if any. Aliens must submit a similar or equivalent certificate from the police authorities in their country of residence or principal domicile.

If the established time-limit has elapsed without such requirement being fulfilled, the harbourmaster's office shall so inform the Directorate-General for Shipping and Ports which shall declare null and void the resolution granting the concession and, in consequence, shall order the immediate restitution to the Nation of the area covered by the concession and the installations constructed thereon.

The shipping authority may grant a new concession, following fulfilment of the legal requirements, including the delivery of the no-information certificate herein described, applying the provisions of articles 102 et seq. of Decree Law No. 222 of 1983 and other related legislation. It may also, temporarily, assign such goods for the fulfilment of its functions or for public service or for the benefit of the community.

Article 29. The National Narcotic Drugs Council shall be empowered, by resolution and whenever it deems necessary, to prohibit or restrict the storage, keeping or transport of the products described in article 1 of this Decree in certain sectors of the national territory, other than those places authorized under the provisions of this Decree and in a quantity in

excess of that determined by the Council itself. The same Council is also empowered to define the zones of prohibition and restriction following the political divisions laid down by law or by geographical coordinates or any other method deemed appropriate. Contravention of the aforementioned restrictions established by the Council shall give rise to the seizure of such products.

Article 30. Governors, intendants and commissioners must within thirty (30) days following the entry into force of this Decree inform the Directorate-General for Shipping and Ports, with a copy to the Directorate-General for Customs, concerning the ports, docks or port or river installations, in the latter case those on rivers which are international boundaries, and those listed in article 2 of Decree No. 2324 of 1984, whether authorized or not, with valid permits or otherwise, under their jurisdiction.

Article 31. The report of the governors, intendants and commissioners shall contain the following:

1. Location, boundaries (if possible), approximate area of the site and existing buildings.

2. General description.

3. Name of the port installation, if any.

4. Name of the owner, operator or concessionaire.

5. Object of use and justification or public benefit in maintaining its operation or functioning or if, on the contrary, it is advisable to close it.

Article 32. The Directorate-General for Shipping and Ports, with the intervention of the harbourmaster's office in whose jurisdiction the ports, docks or port installations are located, shall suspend the permits issued or prohibit their functioning or operation in the event of any of the following circumstances:

1. When they do not have permits, concessions and authorizations in due form which must be issued by the Directorate-General for Shipping and Ports.

2. When in the opinion of the governor, intendant or commissioner such functioning or operation is not justified.

3. When despite recommendations that it is appropriate to continue its functioning and operation, the Directorate-General for Shipping and Ports, after hearing the interested parties and the recommendation of the Director-General of the National Police and the National Narcotic Drugs Council, considers together with the latter that it would be appropriate to prohibit its operation or functioning.

4. When they do not have the relevant authorization from the customs authorities, in particular the authorization for international trade, when applicable.

Paragraph. Governors, intendants and commissioners shall not have to report on the COLPUERTOS ports and terminals, which are exempted in accordance with articles 30 and 31 of the present Decree.

Article 33. This Decree shall enter into force on the date on which it is published and shall supersede any provisions to the contrary.

For publication and implementation,
Bogotá, 31 May 1990

DECREE NO. 2894 OF 3 DECEMBER 1990
establishing measures to restore public order.

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA
in exercise of the powers conferred on him by article 121 of the Political Constitution and pursuant to Decree 1038 of 1984, and

Considering:

That in Decree No. 1038 of 1984 1/ public order was declared to be disturbed and martial law was established throughout the national territory;

That in Decree No. 1146 of 31 May 1990, 3/ it was provided that one of the measures to restore public order and bring an end to the harmful activities and the deleterious effects resulting from illicit acts connected with drug trafficking was to require the submission to the authorities mentioned therein of a "no-information certificate", issued by the Executive Secretariat of the National Narcotic Drugs Council, establishing the time-limit within which it should be submitted and the consequences of failure to do so;

That the interested parties must submit to the Secretariat of the National Narcotic Drugs Council applications for issue of the certificate accompanied, in each case, by the documents required by the legislation in force;

That the time-limits envisaged have proved inadequate to satisfy the requirements of the aforementioned Decree, causing disruption to the national economy with repercussions for the application of the measures to restore public order;

That to facilitate the application of the measures decreed and to prevent such disruption, it is advisable to extend the established time-limits and simplify the procedures for obtaining the said certificates;

That without prejudice to existing legislation it is considered necessary to amend the procedure for the issue of the said certificates, which shall in future be known as "certificates testifying to no known drug trafficking";

That in Decree No. 494 of 27 February 1990, measures were enacted in relation to the composition of the National Narcotic Drugs Council and the functions of the National Narcotic Drugs Council Revolving Fund for Prevention, Suppression and Rehabilitation;

That furthermore it is indispensable to take appropriate measures to ensure that the National Narcotic Drugs Council fulfils the functions assigned to it, temporarily amending its composition so as to permit it to meet with the regularity and effectiveness required by the nature of its responsibilities, which are directly linked to the restoration of public order and the objectives of the aforementioned Fund;

That the National Narcotic Drugs Directorate is responsible for the development and implementation of National Government policies for the control, prevention and suppression of the traffic in narcotic drugs,

DECREES:

Article 1. While public order continues to be disturbed and the national territory remains under martial law, the National Narcotic Drugs Directorate is charged with the coordination, guidance and implementation of the decisions of the National Narcotic Drugs Council. As such, it will continue to fulfil the functions ascribed in article 93 of Law No. 30 of 1986 2/ and article 10 of Decree No. 494 of 1990, to the Narcotic Drugs Office of the Ministry of Justice.

Article 2. For the issue of certificates testifying to no known drug trafficking, the interested party, whether a natural or legal person, national or foreign, shall make a written application, accompanied by the documents required in each case in the relevant legislation.

The application shall be submitted in person by the interested party, his legal representative or through a duly constituted power of attorney to the National Narcotic Drugs Directorate.

When the application is submitted from a place other than the location of the National Narcotic Drugs Directorate headquarters, the process of submission in person shall be effected before a judge or notary who will endorse the application prior to despatch.

Article 3. On receipt of the duly completed applications, the National Narcotic Drugs Directorate shall simultaneously request the competent authorities to provide substantiated information from the records contained in their files in their possession on the complicity of the applicants in activities connected with drug trafficking and related offences, illicit acquisition of wealth or other offences described in article 6 of Decree No. 1856 of 1989.

The competent authorities shall have a period of fifteen (15) days to send in the requested information in writing.

When the applicant is a legal person, the reports shall also include the president, managing director, their deputies, the principal and alternate members of boards and governing bodies and other officials, as well as partners or shareholders owning 20 per cent (20%) or more of the share capital, whether they be natural or legal persons exercising the capacity of partners or managers, regardless of the designation and form of their participation therein. Similar information shall be provided whenever the National Narcotic Drugs Directorate requires it in respect of any official, employee or partner.

When the interested party is an alien, he must submit in addition a similar or equivalent certificate from the police authorities of the country where he has his principal domicile or residence.

Article 4. The request to the competent authorities for information made by the National Narcotic Drugs Directorate in implementation of the present Decree shall be accorded priority and treated as urgent.

Article 5. Within eight (8) days following the provision of the respective replies or the lapse of the time-limit provided for in article 3, the National Narcotic Drugs Directorate, on the basis of the information in its possession, or allegations made to it and on the background and reputation of the applicant, shall issue, when appropriate, the "certificate testifying to no known drug trafficking".

Article 6. The certificate issued shall be valid for the following periods: certificates granted to legal persons which have been constituted for more than ten (10) years may be issued for up to three (3) years; certificates granted to other interested persons shall be valid for up to one (1) year.

Notwithstanding, the certificate may be cancelled unilaterallly at any time by the National Narcotic Drugs Directorate, on the basis of information received from State investigatory agencies. Such cancellation shall be communicated to the competent authorities and there is no recourse against such cancellation.

Article 7. The National Narcotic Drugs Directorate, in the case of refusal to issue the certificate to which this Decree refers, shall inform the applicant of its reasons in order to enable him to clarify his legal position with the competent authorities.

Article 8. Application for the certificate may be made at any time without the need to show the completion of any specific operation or transaction, but in no circumstance will it be transferable or transmissible, nor can it be ceded on any grounds.

Article 9. The National Narcotic Drugs Council, established by article 89 of Law No. 30 of 1986, shall be composed of the following:

1. The Minister of Justice, who shall preside.

2. The Minister of Defence or his representative.

3. The Minister of Education or his representative.

4. The Minister of Public Health or his representative.

5. The Minister for Foreign Affairs or his representative.

6. The National Narcotic Drugs Director, with the right to speak but without a vote.

Paragraph 1. The Board of Directors of the National Narcotic Drugs Council Revolving Fund for Prevention, Suppression and Rehabilitation shall be composed of the same persons.

Paragraph 2. The Secretary General of the National Narcotic Drugs Directorate shall exercise the functions of Secretary of the National Narcotic Drugs Council and Secretary General of the above-mentioned Revolving Fund.

Article 10. The time-limit provided for submitting the certificates testifying to no known drug trafficking, subject to compliance with the requirements established in Decree No. 1146 of 1990 and in this Decree, shall be extended until 3 June 1991.

Article 11. This Decree shall enter into force on the date on which it is published and shall supersede any provisions to the contrary.

For publication and implementation,
Bogotá, 3 December 1990

Notes by the Secretariat

1/ E/NL.1985/69.

2/ E/NL.1986/12.

3/ E/NL.1991/37.